Juvenile Justice

JUVENILE JUSTICE

POLICIES, PROGRAMS, AND PRACTICES

SIXTH EDITION

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About the Authors

Robert W. Taylor is a tenured full Professor in the Department of Criminology and Criminal Justice at the University of Texas at Dallas. Prior to assuming this position, he was the founding director of the Caruth Police Institute. The Institute was established through a $9.5 million grant from the Communities Foundation of North Texas in January 2008 and is located within the Dallas Police Department. For nearly 15 years, Dr. Taylor was professor and chair of the Department of Criminal Justice at the University of North Texas at Denton. He has an extensive background in academic and professional criminal justice, having served as a sworn police officer and major crimes detective in Portland, Oregon, and as an active consultant to various U.S. and international criminal justice agencies. Dr. Taylor has authored or co-authored over 250 articles, books, and manuscripts. Most of his publications focus on police administration and management, police procedures, international and domestic terrorism, and cybercrime, and he has been the recipient of over $17 million in external funding. His articles appear in numerous journals, including *Defense Analysis*, the *ANNALS*, *Police Quarterly, Crime and Delinquency*, and the *Police Chief*. Dr. Taylor is the senior author of three best-selling textbooks, *Terrorism, Intelligence and Homeland Security* (2nd ed. update) (Pearson Publishing, 2022); *Cyber Crime and Cyber Terrorism* (4th ed.) (Pearson, 2020); and *Police Patrol Allocation and Deployment* (Pearson, 2009). He is also the co-author of two truly landmark textbooks, *Police Administration: Structures, Processes, and Behavior* (10th ed.) (Pearson Publishing, 2021); and *Criminal Investigation* (13th ed.) (McGraw Hill, 2023). These texts are used in over 700 universities, colleges, and police departments throughout the United States, Europe, and China, and continue to be developed into new editions. In 2003, Dr. Taylor was awarded the University of North Texas Regent's Lecture Award for his work in the Middle East, and in 2008, the Academy of Criminal Justice Sciences (Police Section) presented Dr. Taylor with the O. W. Wilson Award "in recognition of outstanding contribution to police education, research and practice." He is an active member of the Academy of Criminal Justice Sciences and the American Society of Criminology.

Eric J. Fritsch is a Professor in the Department of Criminal Justice at the University of North Texas in Denton, Texas. He has authored and coauthored several books, journal articles, book chapters, and technical reports. Many of his publications focus on juvenile justice, in particular juvenile violence. He is the founding editor of *Youth Violence and Juvenile Justice: An Interdisciplinary Journal*. His areas of interest include juvenile justice and delinquency, gangs, criminological theory, law enforcement, criminal procedure, research methods, and organizational assessment. Prior to attending graduate school, he was a police officer and a substance abuse counselor.

Dedication

In memory of Dr. Tory J. Caeti,
a founding author of this textbook and a great friend,
whose tragic death in 2006 left an immeasurable void in our lives.
We miss ya' Tory !

Robert W. Taylor

and

Eric J. Fritsch

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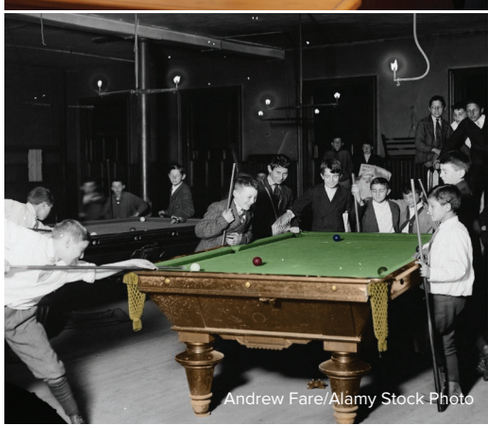
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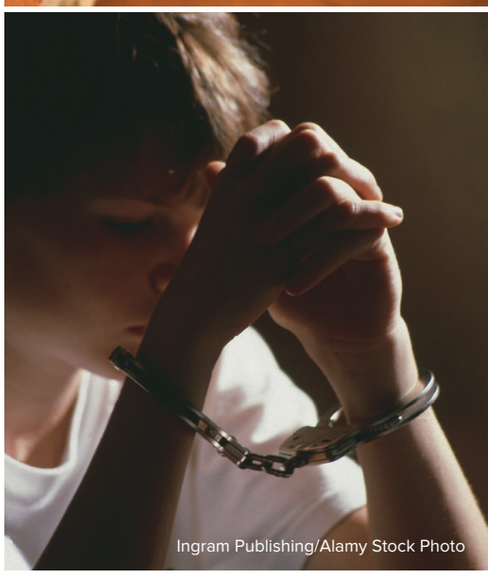
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Preface

The Sixth Edition

Juvenile Justice: Policies, Programs, and Practices takes a detailed look at the juvenile justice system with a student-friendly focus. With an emphasis on practical application, this text provides comprehensive insight into how the juvenile justice system operates in the United States. The focus of this text is on presenting examples of programs, policies, and current practices in the juvenile justice system to highlight and emphasize the key concepts presented. Numerous changes have been made to the juvenile justice system over the past 25 years in response to issues of juvenile crime and problems in dealing effectively with serious habitual juvenile offenders. This text reviews these laws and discusses changes to the juvenile justice system and its operation that have occurred recently. Regardless of your stance on these issues and what should be done with juvenile offenders, a solid working knowledge of the juvenile justice system is important to understanding the broader issues of juvenile justice in the United States.

Juvenile Justice is designed to serve as a text in introductory courses on juvenile justice. This text is not just for students interested in pursuing a career in juvenile justice, however. It is also for students who simply want to learn more about this important social institution. A major theme of this book is that much of what the public "knows" about juvenile justice in the United States is myth—that is, either wrong or significantly misunderstood. Consequently, in addition to presenting current, accurate information about juvenile justice in the United States and generally accepted interpretation of historical and modern development, this book "sets the record straight" in areas where, we believe, many people are being misled.

In addition to updating the text throughout with the latest available statistics and research, including updated box items, figures, tables, and photos, this edition also features expanded discussion of some of today's most pressing issues in juvenile justice.

- Chapter 1, "The Juvenile Justice System," provides a modernized description and illustrative depiction of how cases flow through the juvenile justice system. There is also an updated discussion of the changing age of juvenile court jurisdiction across states and how the juvenile justice system is both similar and different from the adult/criminal justice system.
- Chapter 2, "History of the Juvenile Justice System," details how historical assumptions across three eras impacted policies, programs, and practices within the juvenile justice system.
- Chapter 3, "Juvenile Crime, Criminals, and Victims," updates and examines data about the violent crime involving juveniles. There is also a new discussion on the overall decline of juvenile crime rates over the last decade.
- Chapter 6, "Delinquency Prevention and Intervention," emphasizes how developmental risk factors from prenatal through mid-adolescence shape delinquency prevention programs.
- Chapter 7, "Police and Juveniles," includes new Internet Activities that send students to the Dallas, Texas, PAL website to explore programs for youth and to the national D.A.R.E. website. There is also new discussion on the impact of the George Floyd murder case by police officer Derek Chauvin in Minneapolis, Minnesota, and the future impact of this crime on police–juvenile relations. This chapter also expands the coverage of the drop in juvenile crime, especially violent crime over the past ten years.
- Chapter 8, "Juvenile Law and Procedure," provides a contemporary assessment of recent changes in juvenile law which continues to align the juvenile justice system more with its adult counterpart. In addition, a discussion of corporal punishment in schools provides a modern update on a historical practice.
- Chapter 10, "Juveniles in the Criminal Justice System," highlights recent changes in the utilization of waiver to adult court along with recent age and offense restrictions imposed by states. In the section on the juvenile death penalty, the resurgence of juvenile executions in some countries is discussed.
- Chapter 11, "Community-Based Corrections for Juveniles," includes an enhanced discussion about executive agencies that administer probation and a new figure, "Case Processing Overview."
- Chapter 12, "Institutional Corrections for Juveniles," has been updated with new material on suicide in the juvenile corrections arena. There is also new material on trauma informed care, focusing on understanding the "adverse childhood experiences—ACEs" that many juveniles suffer during their childhood. These include physical and sexual abuse, and

exposure to alcohol and drug abuse. This chapter also expands the coverage on the institutional communities in California, Texas, Florida, Ohio, and Pennsylvania: the five states with the largest number of youth in custody in the United States for the past two decades.

- Chapter 14, "Special Populations," features a new and updated material on drug and alcohol use among juveniles, as well as new data on child maltreatment and abuse. There is also a new discussion on the impact of the worldwide pandemic from COVID-19, and on juvenile crime and victimization rates. Updated material is available on recent state legislation legalizing marijuana and the impact of this change on juvenile crime victimization. An updated discussion on juvenile victimization and exploitation involving hate crime, child abuse and neglect, child pornography and prostitution, and drug/alcohol abuse closes the chapter.
- Chapter 15, "Future Directions in Juvenile Justice," includes a new discussion on the influence of the Trump administration's "get tough" policies on juvenile justice and the potential new reforms promised by the Biden administration. There is also a new "Focus on Policy: Youth Justice Policy Reform," focusing on the reauthorization of the Juvenile Justice and Delinquency Act and future reforms in the juvenile justice system calling for more community-based approaches to rehabilitation and treatment of juvenile offenders. and the potential new reforms promised by the Biden administration.

Organization

This book is divided into 15 chapters organized into five parts. Part 1, "Juvenile Justice and Delinquency in the United States," introduces students to the juvenile justice system as well as juvenile crime and victims, risk and protective factors, and the history of the juvenile justice system. Part 2, "Theories of Juvenile Delinquency," focuses on explanations of juvenile delinquency as well as efforts to prevent it. Part 3, "Policing Juveniles, the Law, and the Courts," is dedicated to the role and function of the police and courts in the juvenile justice system with special attention paid to juvenile law and juveniles in the adult justice system. Part 4, "Juvenile Corrections," introduces students to the corrections system, institutions, detention centers, community corrections, and release of offenders back into the community. Part 5, "Issues in Juvenile Delinquency," is dedicated to some of the most pressing challenges facing the juvenile justice system today: gangs, violent offenders, sex offenders, the exploitation of children, and more.

Pedagogical Aids

Working together, the authors and editor have developed a learning system designed to help students get the most out of their juvenile justice course. The learning system within this text as a whole is without peer in juvenile justice textbooks. In addition to the changes already mentioned, redesigned and carefully updated tables and figures highlight and amplify the text coverage. And chapter outlines, objectives, reviews, marginal definitions, and an end-of-book glossary all help students master the material. Other innovative learning tools include:

Focus on Policy, Practice, and Programs. These boxes appear throughout the text and are used to provide in-depth information on, and examples of, policies, practices, and programs in the juvenile justice system.

Careers in Juvenile Justice. These boxes focus on career options in the juvenile justice field and highlight the many options available to students interested in pursuing a career in juvenile justice.

JJ Online. These inserts enable students to explore chapter topics on the Net in a directed fashion.

FYI. These sidebars present eye-opening additional information to retain students' interest and keep them thinking about what they are reading.

Myth vs. Fact. These inserts debunk common misconceptions about the juvenile justice system and alert students to the need to question what they see in the media.

We are especially excited about our comprehensive end-of-chapter review sections. In these sections, we provide every kind of review and study tool students could need:

- *Summary by Chapter Objectives*—a terrific study tool, because it is organized into sections that mirror the chapter-opening objectives exactly.
- *Key Terms*—a comprehensive list of the terms defined in the chapter, complete with page references to make it easy for students to go back and review further.
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- *Hands-On Activities*—unique experiential exercises that enable students to broaden their understanding of chapter material by taking it to the next level.
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Supplements

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Acknowledgments

The authors and editors would like to thank the following reviewers for their valuable contributions to the revision of *Juvenile Justice*.

Thanks to each of you for lending us your time and professionalism in helping make this a better book.

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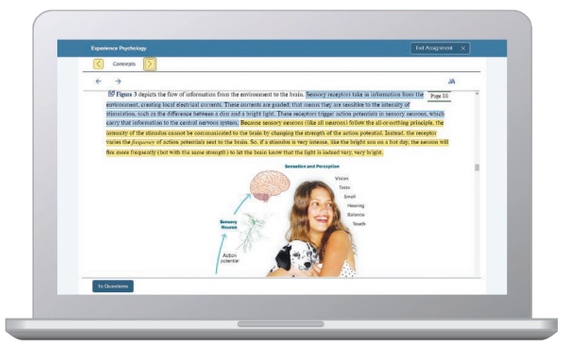

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PART 1

Juvenile Justice and Delinquency in the United States

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The Juvenile Justice System

CHAPTER ONE

Chapter Outline

Origins of the Juvenile Justice System

Juvenile Court Jurisdiction

- Defining Delinquency
- Defining a Juvenile

The Language of Juvenile Justice

Overview of the Juvenile Justice System

- Law Enforcement and Other Referral Sources
- Juvenile Court
- Disposition

Comparison of Juvenile and Criminal Justice Systems

Chapter Objectives

After completing this chapter, you should be able to:

1. Describe the jurisdiction of the juvenile court.
2. Explain what is meant by delinquency.
3. Explain what is meant by status offenses.
4. Compare the ways in which the various states define a juvenile.
5. Identify and define the unique terms used in the juvenile justice system.
6. Outline the three major steps in the juvenile justice process.
7. Describe the five decision points in the juvenile justice process.
8. Compare and contrast the juvenile and criminal justice systems.

Origins of the Juvenile Justice System

Before the establishment of the **juvenile justice system,** courts and judges treated juveniles as adults and, in many instances, juvenile offenders received the same punishment as adults. There was only one system of justice in the United States, and all offenders were processed through it without regard to age. Under common law doctrine, the legal system the American colonists brought from England, a juvenile age 7 or older could receive the same punishment as an adult. Juveniles were housed in prisons with adults and sometimes received the death penalty; however, evidence shows that the most severe punishments were rarely given to juveniles.[1] The establishment of separate institutions to confine juvenile offenders separately from adults occurred in the early 1800s. In 1899, the first juvenile court was founded in Cook County, Illinois.

Why should there be a separate system of justice for juvenile offenders? Those who were concerned about the treatment of juveniles in the adult system argued that because juveniles are less mature than adults and cannot develop the same level of intent as adults, they should be handled differently. In fact, because of their immaturity, it was believed that some juveniles could more easily be rehabilitated.

Based on assumptions that juveniles are less mature than adults, incapable of the same level of intent as adults, and more easily rehabilitated, a separate system of justice was developed in the late 1800s to deal exclusively with juveniles. This system is known as the juvenile justice system. Eventually, every state developed a separate juvenile justice system with its own set of courts and institutions.

The juvenile justice system is composed of those agencies whose primary duty is to manage juvenile offenders. Today, most major police departments have officers whose sole responsibility is to deal with juvenile delinquency. In fact, because of recent school shooting incidents, many departments have officers regularly assigned to local elementary and secondary schools in their communities. In addition, every state has juvenile courts with their own judges, probation departments, and prosecutors. Furthermore, every state has separate places such as detention centers and institutions in order to confine juveniles apart from adults.

The juvenile justice system was founded on the belief of ***parens patriae*,** roughly translated into "state as parent." The state, acting through a juvenile court judge, can act in the role of parent for the juvenile when parents are deemed incapable or unwilling to control their children. Therefore, the juvenile justice system was designed to do whatever is in the best interest of the juvenile, just as a parent should. The juvenile justice system has evolved significantly from its origins, which will be discussed in later chapters.

1.1 SELF-CHECK

What assumptions led to the establishment of a separate system of justice for juvenile offenders?

This chapter describes the juvenile justice system. Definitions of a juvenile and the types of cases confronting the juvenile justice system are given. The definitions of terms used exclusively in the juvenile justice system, a brief overview of the major steps in the juvenile justice process, and an explanation of how juveniles are typically processed will be provided. The similarities and differences between the adult and juvenile justice systems are also discussed.

juvenile justice system The system of agencies that is designed to handle juvenile offenders.

parens patriae A legal doctrine in which the state plays the role of a parent.

jurisdiction The authority granted by law to hear a case.

Juvenile Court Jurisdiction

Jurisdiction is the authority granted by law to hear a case. State law, in what is commonly referred to as a juvenile or family code, specifies the jurisdiction of the juvenile court. The concept of jurisdiction involves the answers to two questions:

1. For what acts committed by juveniles does the juvenile court have jurisdiction?
2. What age does an individual have to be in order to be under juvenile court jurisdiction?

DEFINING DELINQUENCY

Juvenile **delinquency** is any behavior that is prohibited by the juvenile law of a state. The juvenile court has jurisdiction over all acts of delinquency. Each state's legislature defines delinquency in that particular state. However, delinquency generally consists of two categories. The first category of delinquency is any act committed by a juvenile that would be defined as a crime if committed by an adult. Therefore, an act of delinquency in juvenile court is the same as a crime in adult court. Offenses such as theft, burglary, assault, and robbery are acts of delinquency, just as they are adult crimes. Even without knowing these definitions, when people think of delinquency, they usually think of acts committed by juveniles that would be considered crimes if committed by adults. The second category of delinquency includes acts known as **status offenses.** A status offense would not be considered a crime if committed by an adult but would be considered an act of delinquency if committed by a juvenile. Status offenses include running away from home, skipping school (truancy), violating curfew, incorrigibility or ungovernability (not obeying one's parents), illegal purchase of alcohol, smoking tobacco, and underage drinking.

Typical juvenile court in the United States. *How is the picture of a juvenile court similar to or different from pictures you have seen of adult courts? How does the picture differ from your original perception of what a juvenile court looks like?* Aaron Roeth Photography

About one-half of all the states classify status offenders as delinquents. The other states have established categories that distinguish juvenile delinquents from status offenders. These states classify status offenders as

- CHINS or CINS—children in need of supervision
- PINS—persons in need of supervision
- JINS—juveniles in need of supervision
- MINS—minors in need of supervision

Two reasons for separating juvenile delinquents from status offenders are to remove the stigma of being classified as a juvenile delinquent from status offenders and to demonstrate that these juveniles have special problems and needs but are not criminal in nature.

The term *juvenile delinquency* describes acts that range from truancy to murder. With such a range of acts considered delinquent by law, almost all juveniles might be classified as delinquents at one time or another, because many young people have committed at least one act of delinquency. Although almost all juveniles commit delinquent acts, most are not processed in the juvenile justice system for these offenses because they are never taken into custody for their actions.

Frequently, the juvenile court has jurisdiction over several matters in addition to juvenile delinquency, including child abuse and neglect cases, adoption, termination of parental rights, child custody, and child support. Some states separate these matters into family courts, child welfare courts, and probate courts. The focus of this book, however, is on the court's role in matters of delinquency.

delinquency Any behavior that is prohibited by the juvenile law of a state.

status offense An act of delinquency committed by a juvenile that would not be considered a crime if committed by an adult.

DEFINING A JUVENILE

Just as each state has defined delinquency, each state has defined the term *juvenile*. As far as the law is concerned, the only difference between a juvenile and an adult is age. Similarly, age is the only difference between a delinquent and a criminal. Therefore, if an individual is within a certain age range, he or she is classified as a **juvenile** and subject to juvenile court jurisdiction. Each state's legislature determines the minimum and maximum age at which a person is considered a juvenile. If an individual is above the maximum age, they are considered an adult and are processed in the **criminal justice system.**

Although it varies by state, the most common maximum age of a juvenile is 17. Therefore, in states that classify 17 as the **maximum age of juvenile court jurisdiction,** a 17-year-old who commits an offense is processed in juvenile court, whereas an 18-year-old who commits the

juvenile An individual who falls within a specified age range and is subject to the jurisdiction of the juvenile court.

criminal justice system The system of agencies that is designed to manage adult offenders.

maximum age of juvenile court jurisdiction The upper age limit for which the juvenile court may hear a case.

Running away is a status offense. *What role do you think the juvenile justice system (including police, courts, and corrections) should play in dealing with runaways?* Liquidlibrary/Getty Images

same offense is processed in adult court. Figure 1.1 shows the maximum age of juvenile court jurisdiction by state. As shown, most states do define the maximum age of juvenile court jurisdiction as age 17. In seven states, the maximum age of juvenile court jurisdiction is set at 16. In these states, when individuals 16 years of age or younger commit an offense, they are processed in the juvenile justice system, whereas those 17 years of age or older are processed in the criminal justice system. In Vermont, the maximum age of juvenile court jurisdiction is set at 18.

As far as state and federal law and processing in the justice system are concerned, there is not a universally agreed upon age as to when a person stops being a juvenile and becomes an adult. One can easily see that, as far as justice system processing is concerned, there is no

FIGURE 1.1 Maximum Age of Juvenile Court Jurisdiction by State

Age	States
16	Connecticut, Georgia, Illinois, Massachusetts, New Hampshire, Texas, Wisconsin
17	Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia, Wyoming
18	Vermont

Source: *OJJDP Statistical Briefing Book.* Online. Available: https://www.ojjdp.gov/ojstatbb/structure_process/qa0412.asp?qaDate=2018. Released on December 13, 2019.

The juvenile court has jurisdiction over acts of delinquency. *What factors do you think lead youth to commit delinquent acts? What can be done to prevent delinquency?* Mikael Karlsson/Alamy Stock Photo

magic age at which an individual becomes a mature adult, capable of making adult decisions. In Texas, a 17-year-old who commits an offense is handled in adult court because the maximum age of juvenile court jurisdiction in Texas is 16. On the other hand, if the same juvenile travels to California and commits the same offense while still 17 years of age, the individual would be handled in juvenile court because the maximum age of juvenile court jurisdiction in California is 17.

Every state has a maximum age of juvenile court jurisdiction, but not every state has a specified **minimum age of juvenile court jurisdiction** (see Figure 1.2). Individuals who are younger than the minimum age of juvenile court jurisdiction are believed to lack the ability to develop intent and to know right from wrong. Therefore, these individuals cannot be processed in the juvenile justice system, regardless of the act they commit. Under common law doctrine, individuals under age 7 were presumed to be unable to develop intent and therefore could not be prosecuted and punished for their actions. States that do set a minimum age of juvenile court jurisdiction usually set the age between 6 and 12.[2] For example, the minimum age of juvenile court jurisdiction in New York, Connecticut, and Maryland is 7, whereas the minimum age is 10 in states such as Colorado and Texas. North Carolina has the lowest minimum age of juvenile court jurisdiction (6 years of age).

In those states that set a minimum age of juvenile court jurisdiction, individuals who are younger than the minimum age are not subject to juvenile court jurisdiction. They cannot be processed in juvenile court, regardless of the offense committed and cannot be held liable for their actions. For example, the minimum age of juvenile court jurisdiction in Pennsylvania is 10 years. In Pennsylvania

Myth	Fact
The term juvenile is defined the same way in each state.	How the term juvenile is defined varies from state to state. Source: *OJJDP Statistical Briefing Book*. Online. Available: https://www.ojjdp.gov/ojstatbb/structure_process/qa0412.asp?qaDate=2018. Released on December 13, 2019.

1.2 SELF-CHECK

1. What is a status offender?
2. What is the most common maximum age of juvenile court jurisdiction?

minimum age of juvenile court jurisdiction The lower age limit for which the juvenile court may hear a case.

FIGURE 1.2 Minimum Age of Juvenile Court Jurisdiction by State

Age	State
6	North Carolina
7	Connecticut, Maryland, New York
8	Arizona
10	Arkansas, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Pennsylvania, South Dakota, Texas, Vermont, Wisconsin
11	Nebraska
12	California
No minimum age specified	Alabama, Alaska, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Michigan, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Virginia, Washington, West Virginia, Wyoming

Source: *OJJDP Statistical Briefing Book*. Online. Available: https://www.ojjdp.gov/ojstatbb/structure_process/qa0412.asp?qaDate=2018. Released on December 13, 2019.

individuals younger than that age cannot formulate intent and therefore cannot be processed in the juvenile justice system if they commit an offense. Therefore, if a 9-year-old committed murder, the juvenile justice system would not have jurisdiction over the case. The juvenile would not be incarcerated for the action but would be released to the custody of their parents. If the parents are deemed unfit, the Department of Human Services could remove the child from the parents' home and place the child in a foster home, but the juvenile court could not confine the individual for the action.

The Language of Juvenile Justice

One of the goals of the juvenile justice system when it separated from the criminal justice system was the rehabilitation of juvenile offenders. Because the stigma attached to juveniles who were labeled as criminals interfered with the rehabilitation process, the juvenile justice system needed to be distanced as much as possible from the criminal justice system. In order to accomplish this, a different set of terms is used in the juvenile justice system. Each term has a companion term in the adult system. For example, delinquent acts in the juvenile justice system essentially mean the same as crimes in the criminal justice system. Similarly, the term *delinquent* essentially means the same as criminal. Figure 1.3 gives a list of defined terms used in the juvenile justice system and the companion terms used in the criminal justice system.

1.3 SELF-CHECK

Why was a separate set of terms established for use in the juvenile justice system?

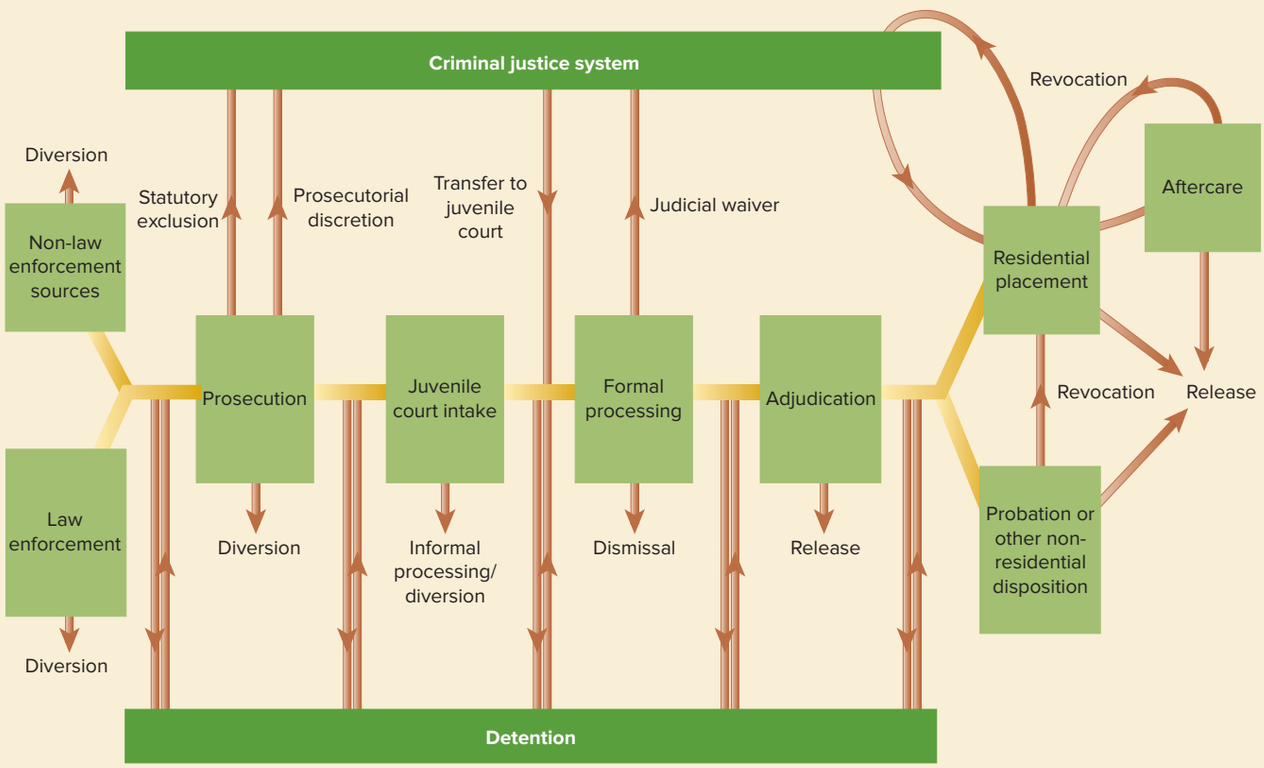
Overview of the Juvenile Justice System

The ways juveniles are processed in the juvenile justice system vary greatly among states and even within the same state. Each state has its own juvenile code that specifies the laws and procedures of the system in that state. However, because of local practice and tradition, the processing of juvenile offenders varies from state to state and even from county to county. Therefore, it is difficult to describe precisely how juveniles are processed through the juvenile justice system. With these variations in mind, an overview of the major steps in the juvenile justice system follows. Figure 1.4 provides a graphical display of the major steps in the juvenile justice system.

FIGURE 1.3 Comparison of Terms Used in the Juvenile Justice System and in the Criminal Justice System

Juvenile Justice System Term	Criminal Justice System Term
Adjudicated delinquent—Found to have engaged in delinquent conduct	Conviction
Adjudication hearing—A hearing to determine whether there is evidence beyond a reasonable doubt to support the allegations against the juvenile	Trial
Aftercare—Supervision of a juvenile after release from an institution	Parole
Commitment—Decision by a juvenile court judge to send the adjudicated juvenile to an institution	Sentence to prison
Delinquent act—A behavior committed by a juvenile that would have been a crime if committed by an adult	Crime
Delinquent—A juvenile who has been adjudicated of a delinquent act in juvenile court	Criminal
Detention—Short-term secure confinement of a juvenile for the protection of the juvenile or for the protection of society	Confinement in jail
Detention center—A facility designed for short-term secure confinement of a juvenile prior to court disposition or execution of a court order	Jail
Disposition—The sanction imposed on a juvenile who has been adjudicated in juvenile court	Sentence
Disposition hearing—A hearing held after a juvenile has been adjudicated	Sentencing hearing
Institution—A facility designed for long-term secure confinement of a juvenile after adjudication (also referred to as a training school)	Prison
Petition—A document that states the allegations against a juvenile and requests a juvenile court to adjudicate the juvenile	Indictment
Taken into custody—The action on the part of a police officer to obtain custody of a juvenile accused of committing a delinquent act	Arrest

FIGURE 1.4 The Juvenile Justice System



Source: *OJJDP Statistical Briefing Book.* Online. Available: www.ojjdp.gov/ojstatbb/structure_process/case.html.

JUVENILE JUSTICE ONLINE

Juvenile Arrests 2019
Go to **https://ojjdp.ojp.gov/library/publications/juvenile-arrests-2019.pdf**
What conclusions can be drawn about trends in juvenile arrests?

FYI

Fewer than 700,000 Arrests

Law enforcement agencies in the United States made 696,620 arrests of persons under age 18 in 2019. This is the fewest arrests of juveniles in nearly four decades.

SOURCE: Charles Puzzanchera. *Juvenile Arrests 2019*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2021.

LAW ENFORCEMENT AND OTHER REFERRAL SOURCES

A juvenile enters the formal juvenile justice system by being referred to juvenile court. Two main sources of referrals to juvenile court are

1. law enforcement agencies; and
2. others such as parents, victims, schools, and probation officers.

Law enforcement agencies refer the vast majority of cases alleging that a juvenile has committed a delinquent act. In 2018, 82 percent of all delinquency cases were referred by law enforcement sources.[3] Not every juvenile that a law enforcement agency takes into custody is referred to juvenile court for further action. When a law enforcement officer takes a juvenile into custody, the officer frequently decides whether to send the case further into the juvenile justice system or to divert the case out of the system—many times into **diversion** programs. An officer makes the decision after speaking with the victim, the juvenile, and the parents. In 2019, about 26 percent of all juveniles taken into custody by police officers were handled within law enforcement agencies. In some of those cases, juveniles were placed in a diversion program in order to receive some services. The remaining juveniles taken into custody were referred to juvenile court for further action in the case.[4]

JUVENILE COURT

The process in juvenile court involves three distinct procedures: intake, prosecution, and adjudication. Each step in the juvenile court process is briefly described in this section.

Law enforcement is the most common referral source to juvenile court. *What factors do you think impact an officer's decision to take youth into custody and refer them to juvenile court?*
RichLegg/Getty Images

JUVENILE COURT INTAKE After a case has been referred to juvenile court, it is sent to **intake.** Intake is usually the responsibility of the juvenile probation department or the prosecutor's office. At this point in the juvenile court process, an important decision is made. The decision usually involves three alternatives:

1. Dismiss the case against the juvenile and release the individual to their parents
2. Handle the matter informally
3. Refer the case further into the juvenile justice system for formal intervention by the court[5]

Cases that are dismissed at intake usually involve minor offenses or first-time offenders. They often lack enough evidence to support the allegations against the juvenile. In 2018, 17 percent of all delinquency cases were dismissed at intake.[6]

An additional 26 percent of all cases referred to juvenile court are handled informally at intake, with juveniles agreeing to some sort of voluntary sanction.[7] In many instances, the juvenile agrees to complete certain requirements (determined by juvenile court personnel) in exchange for having the case handled informally and not processed further in the system. The juvenile is typically required to pay **victim restitution,** complete a drug counseling program, perform **community service,** attend school, or some other related requirement. If the juvenile completes the requirements, then nothing further occurs with the case (that is, the case is dismissed). This process is sometimes called **informal probation.**[8] However, if the juvenile does not complete the requirements, then the case can be sent to juvenile court for further processing within the juvenile justice system.

When juveniles are processed further in the system, an intake officer decides whether the juvenile should be placed in detention or released to the community. Most juveniles are not held in a detention center prior to adjudication; however, juveniles are

Schools serve as referral sources to juvenile court. *What offenses that occur in school are most likely to be referred to juvenile court?* lmtmphoto/Shutterstock

likely to be detained (1) if they are determined to be a threat to the community; (2) if they will be in danger if returned to the community; or (3) if they are a flight risk and may not appear at the adjudication hearing.[9] In 2018, juveniles were detained in one of every five cases.[10]

PROSECUTION Once an intake officer decides to process the juvenile further in the system, a prosecutor receives the case. The prosecutor decides whether to file a petition in juvenile court. The petition states the allegations against the juvenile and asks the juvenile court to adjudicate the juvenile as delinquent. If the prosecutor chooses not to file a petition in the case, the case is dismissed at that time. A prosecutor may also have the option to waive the juvenile to the criminal justice system for prosecution. This process is known as **waiver to adult court,** certification, or transfer, and involves a juvenile court's relinquishing its jurisdiction over the offender and allowing a juvenile to be sent to adult court for prosecution. Once waived to adult court, the juvenile is treated as an adult and, if convicted, may be eligible for the same punishments as adults, excluding the death penalty. In addition, juveniles are not eligible to receive life without the possibility of parole for nonhomicidal offenses. The prosecutor is usually the individual who starts the process of waiving a juvenile to adult court.

ADJUDICATION If a prosecutor files a petition against a juvenile alleging delinquent conduct, then the next step in the process is **adjudication.** In 2018, juvenile courts in the United States handled approximately 422,100 petitioned cases in which a juvenile was charged with a delinquent offense that would have been a crime

diversion A procedure by which a juvenile is removed from the juvenile justice process and provided with treatment services.

intake The procedure by which juvenile court staff decide whether to process the case further in court, handle the case informally, or dismiss the case.

victim restitution A sanction by which a juvenile offender pays the victim for the harm done.

community service A sanction requiring a juvenile offender to perform a predetermined number of hours of volunteer work.

informal probation A process by which a juvenile agrees to meet certain requirements in exchange for dismissing a case.

waiver to adult court The process through which a juvenile court relinquishes jurisdiction over the juvenile offender and the case is processed in adult court.

adjudication Decision by a juvenile court judge that a juvenile committed the delinquent act.

Juvenile court adjudication is a major step in the juvenile court process. *What decisions are made during adjudication?* Deborah Cheramie/E+/Getty Images

The prosecutor represents the state in cases against juveniles. *What decisions are made by the prosecutor?* Rich Legg/Getty Images

1.4 SELF-CHECK

What is the most common disposition in juvenile court?

if committed by an adult.[11] The number of delinquency cases processed by juvenile courts decreased 55 percent between 2005 and 2018. Between 2005 and 2018, the number of cases decreased for all offense categories: property offenses 58 percent, drug offenses 54 percent, public order offenses 53 percent, and person offenses 44 percent.[12] Adjudication hearings are held in juvenile court to determine if the juvenile committed the offense. They are the trial stage of the juvenile justice process. Usually, a judge determines if a juvenile committed an offense, but in some states, juries are occasionally used in juvenile court.

DISPOSITION

After a juvenile has been deemed delinquent, a juvenile court judge will provide a disposition in the case. The disposition frequently involves probation or residential placement.

Probation or Other Nonresidential Dispositions

The most common disposition in juvenile court is probation. **Probation** allows a juvenile to remain in the community as long as they abide by certain conditions of probation. Many times, probation orders require a juvenile to attend counseling programs (for example, drug counseling), to perform community service, and to pay victim restitution. The probation term is usually for a specified period of time (for example, one year). If the juvenile successfully abides by the conditions of probation for the specified period of time, then the case is completed and no further action in the case is warranted. However, if the juvenile does not abide by the conditions of probation, the probationary sentence can be revoked and the juvenile may be placed in a residential facility.

probation A disposition imposed by the court allowing the adjudicated offender to remain in the community as long as the offender abides by certain conditions.

Residential Placement

Another disposition involves residential placement, which means a juvenile is sent to an institution, camp, ranch, or group home. The placement may be for a specified period of time, or it may be indeterminate. In 2018, 28 percent of the juveniles

CAREERS IN JUVENILE JUSTICE

Juvenile Court Referee

Juvenile court judges must tend to a large volume of cases on a daily basis. In order to assist with the workload, referees are frequently appointed by the juvenile court judge to assist with the duties of the court. Referees are sometimes called commissioners or masters. For example, they are called referees in Michigan, masters in Delaware, and commissioners in Missouri.

The local governing body over the juvenile court typically approves of the use of referees in their jurisdiction. Referees are usually attorneys (but not always) and are appointed by the juvenile court judge. The position is full-time in most jurisdictions.

The duties of a referee vary from jurisdiction to jurisdiction, but the primary responsibility of the referee is usually to hear cases and tend to preadjudication hearings such as detention hearings and arraignments. The referee also presides over adjudication hearings involving less serious cases so that the juvenile court judge can focus on more serious felony offenses. Referees are typically prohibited from conducting waiver hearings or jury trials. In some jurisdictions, they are prohibited from hearing any cases that involve felony offenses or that may lead to the institutionalization of the juvenile.

Critical Thinking

Research the juvenile court structure and process in your own state and find out whether only attorneys are allowed to become referees. What other professional backgrounds might prepare an individual to become a referee?

adjudicated delinquent were placed in a residential facility.[13] The facility may be a ranch-type environment or an institution-like environment and may be publicly or privately operated. Once a juvenile is released from a residential placement, the juvenile is often required to serve a period of aftercare. Juveniles continue to be under the supervision of the juvenile corrections department, but if juveniles do not follow the terms of release from the residential facility, then they may have their aftercare revoked and be recommitted to the facility.

There are two circumstances in which a juvenile in a residential placement may be sent to the criminal justice system for confinement:

1. If the offender commits a crime while in the facility and is old enough to be classified as an adult in the state, then the individual may be sent to prison if convicted in the criminal justice system for the offense. For example, if an 18-year-old is confined in an institution and murders another person in the institution, then the individual will probably be sent to the criminal justice system for processing and will be incarcerated in prison because the individual is now an adult under state law (that is, age 18).
2. The individual may be sent to the criminal justice system if the individual is subject to blended sentencing. Blended sentencing involves the imposition of juvenile and/or correctional sanctions for serious and violent juvenile offenders who have been processed in the juvenile or adult court. (Blended sentencing will be discussed in detail in Chapter 10.)

Comparison of Juvenile and Criminal Justice Systems

There are many similarities and differences between the juvenile justice system and the criminal justice system, but not all apply to each state or jurisdiction because of the variations in the juvenile justice system mentioned previously.

JUVENILE JUSTICE ONLINE

Juveniles in Residential Placement, 2017

Go to **https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/documents/juveniles-in-residential-placement-2017.pdf** Read the report and write a two-page summary. In the summary, be sure to include comments on what you found most interesting about the report.

Juveniles are sometimes placed in halfway houses prior to or after institutionalization. *How does the picture of this halfway house differ from your original perception of residential placement facilities for juveniles?* Ryan McVay/Getty Images

Myth	Fact
The juvenile and criminal justice systems are the same, only the ages of the offenders differ.	There are numerous differences between the juvenile and criminal justice systems. Source: Sickmund, Melissa and Charles Puzzanchera (eds.), *Juvenile Offenders and Victims: 2014 National Report.* Pittsburgh, PA: National Center for Juvenile Justice, 2014.

1.5 SELF-CHECK

Do the similarities and differences between the juvenile justice system and criminal justice system apply to every jurisdiction?

Figure 1.5 illustrates the basic similarities and differences between the juvenile and criminal justice systems. The first column, entitled "Juvenile Justice System," lists the characteristics that are unique in the juvenile justice system. These are the characteristics of the juvenile justice system that differ from those of the criminal justice system. The second column, "Common Ground," displays the characteristics similar in both the juvenile and the criminal justice systems. The third column, "Criminal Justice System," lists characteristics unique to the adult criminal justice system. These are features of the criminal justice system that do not exist in the juvenile justice system.

The figure is also divided into eight categories. The similarities and differences between the juvenile and criminal justice systems are presented for each category.

FIGURE 1.5 Comparison of the Juvenile Justice and the Criminal Justice Systems

Juvenile Justice System	Common Ground	Criminal Justice System
Operating Assumptions		
• Youth behavior is malleable. • Rehabilitation is usually a viable goal. • Youth are in families and not independent.	• Community protection is a primary goal. • Law violators must be held accountable. • Constitutional rights apply.	• Sanctions should be proportional to the offense. • General deterrence works. • Rehabilitation is not a primary goal.
Prevention		
• Many specific delinquency prevention activities (e.g., school, church, recreation) are used. • Prevention is intended to change individual behavior and is often focused on reducing risk factors and increasing protective factors in the individual, family, and community.	• Educational approaches are taken to specific behaviors (e.g. drunk driving and drug use).	• Prevention activities are generalized and are aimed at deterrence (e.g., Crime Watch).
Law Enforcement		
• Specialized "juvenile" units are used. • Some additional behaviors are prohibited (truancy, running away, curfew violations). • Some limitations are placed on public access to information. • A significant number of youth are diverted away from the juvenile justice system, often into alternative programs.	• Jurisdiction involves the full range of criminal behavior. • Constitutional and procedural safeguards exist. • Both reactive and proactive approaches (targeted at offense types, neighborhoods, etc.) are used. • Community policing strategies are employed.	• Open public access to all information is required. • Law enforcement exercises discretion to divert offenders out of the criminal justice system.
Intake—Prosecution		
• In many instances, juvenile court intake, not the prosecutor, decides what cases to file. • The decision to file a petition for court action is based on both social and legal factors. • A significant portion of cases are diverted from formal case processing. • Intake or the prosecutor diverts cases from formal processing to services operated by the juvenile court, prosecutor's office, or outside agencies.	• Probable cause must be established. • The prosecutor acts on behalf of the State.	• Plea bargaining is common. • The prosecution decision is based largely on legal facts. • Prosecution is valuable in building history for subsequent offenses. • Prosecution exercises discretion to withhold charges or divert offenders out of the criminal justice system.
Detention—Jail/Lockup		
• Juveniles may be detained for their own protection or the community's protection. • Juveniles may not be confined with adults unless there is "sight and sound separation."	• Accused offenders may be held in custody to ensure their appearance in court. • Detention alternatives of home or electronic detention are used.	• Accused individuals have the right to apply for bond/bail release.

Juvenile Justice System	Common Ground	Criminal Justice System
	Adjudication—Conviction	
• Juvenile court proceedings are "quasi-civil" (not criminal) and may be confidential. • If guilt is established, the youth is adjudicated delinquent regardless of offense. • Right to jury trial is not afforded in all states.	• Standard of "proof beyond a reasonable doubt" is required. • Rights to be represented by an attorney, to confront witnesses, and to remain silent are afforded. • Appeals to a higher court are allowed. • Experimentation with specialized courts (i.e., drug courts, gun courts) is under way.	• Defendants have a constitutional right to a jury trial. • Guilt must be established on individual offenses charged for conviction. • All proceedings are open.
	Disposition—Sentencing	
• Disposition decisions are based on individual and social factors, offense severity, and youth's offense history. • Dispositional philosophy includes a significant rehabilitation component. • Many dispositional alternatives are operated by the juvenile court. • Dispositions cover a wide range of community-based and residential services. • Disposition orders may be directed to people other than the offender (e.g., parents). • Disposition may be indeterminate, based on progress demonstrated by the youth.	• Decisions are influenced by current offense, offending history, and social factors. • Decisions hold offenders accountable. • Decisions may give consideration to victims (e.g., restitution and "no contact" orders). • Decisions may not be cruel or unusual.	• Sentencing decisions are bound primarily by the severity of the current offense and by the offender's criminal record. • Sentencing philosophy is based largely on proportionality and punishment. • Sentence is often determinate, based largely on offense.
	Aftercare—Parole	
• Function combines surveillance and reintegration activities (e.g., family, school, work).	• The behavior of individuals released from correctional settings is monitored. • Violation of conditions can result in reincarceration.	• Function is primarily surveillance and reporting to monitor illicit behavior.

Source: Howard N. Snyder and Melissa Sickmund. *Juvenile Offenders and Victims: 1999 National Report.* Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 1999.

SUMMARY BY CHAPTER OBJECTIVES

1. Describe the jurisdiction of the juvenile court

The juvenile court has jurisdiction over acts of delinquency, which describe any behavior a juvenile commits that would be a crime if committed by an adult. In addition, delinquency typically includes status offenses. A status offense is any act committed by a juvenile that would not be considered a crime if committed by an adult. Each state defines the age range of the term juvenile, but typically it is a person under age 18.

2. Explain what is meant by delinquency

Delinquency is any behavior that is prohibited by the juvenile law of the state.

3. Explain what is meant by status offenses

A status offense is an act committed by a juvenile that would not be considered a crime if committed by an adult, such as running away from home, truancy, violating curfew, and underage drinking.

4. Compare the ways in which the various states define a juvenile

Each state legislature determines the minimum and maximum ages at which a person is defined as a juvenile. The most common maximum age of a juvenile is 17, whereas some states set the maximum age at 16. Not every state has a specified minimum age of juvenile court jurisdiction. Some states do not set a minimum age, but those that do usually set the age between ages 6 and 12.

5. Identify and define the unique terms used in the juvenile justice system

Adjudicated delinquent or found to have engaged in delinquent conduct—Decision by a juvenile court judge that a juvenile committed the delinquent act (same as conviction in criminal justice system).

Adjudication hearing—A hearing to determine whether there is evidence beyond a reasonable doubt to support the allegations against a juvenile (same as trial in criminal justice system).

Aftercare—Supervision of a juvenile after release from an institution (same as parole in criminal justice system).

Commitment—Decision by a juvenile court judge to send an adjudicated juvenile to an institution (same as sentence to prison in criminal justice system).

Delinquent—A juvenile who has been adjudicated of a delinquent act in juvenile court (same as criminal in criminal justice system).

Delinquent act—An act committed by a juvenile that would have been a crime if committed by an adult (same as crime in the criminal justice system).

Detention—Short-term secure confinement of a juvenile for the protection of the juvenile or protection of society (same as confinement in jail in criminal justice system).

Detention center—A facility designed for short-term secure confinement of a juvenile prior to court disposition or execution of a court order (same as jail in criminal justice system).

Disposition—The sanction imposed on a juvenile who has been adjudicated in juvenile court (same as sentence in criminal justice system).

Disposition hearing—A hearing held after a juvenile has been adjudicated delinquent to determine what sanction should be imposed on the juvenile (same as sentencing hearing in criminal justice system).

Institution—A facility designed for long-term secure confinement of a juvenile after adjudication; also referred to as a training school (same as prison in criminal justice system).

Petition—A document that states the allegations against a juvenile and requests the juvenile court to adjudicate the juvenile (same as indictment in criminal justice system).

Taken into custody—The action on the part of a police officer to obtain custody of a juvenile accused of committing a delinquent act (same as arrest in criminal justice system).

6. Outline the three major steps in the juvenile justice process

The three major steps in the juvenile justice process are referral, juvenile court (which involves three different procedures: intake, prosecution, and adjudication), and disposition.

7. Describe the five decision points in the juvenile justice process

At the referral stage, the major decision is whether to send the case to juvenile court or to handle the matter in some other manner. At the intake stage, two major decisions are made: (a) whether the case should be dismissed, handled informally, or adjudicated and (b) whether a juvenile should be placed in detention or released to the community.

At the prosecution stage, the major decision taken is whether to file a petition in juvenile court. At that stage, the prosecutor also decides whether to initiate proceedings to waive a juvenile to adult court. At the adjudication stage, an adjudication hearing is held to determine if the juvenile committed the offense alleged. The major decision at the disposition stage is to determine the sanction that will be imposed on the offender.

8. Compare and contrast the juvenile and criminal justice systems

There are numerous similarities and differences between the juvenile and criminal justice systems. For example, both systems require the standard of "proof beyond a reasonable doubt" and both frequently use probation. However, traditionally, rehabilitation has been seen as a viable goal in the juvenile justice system, but it is not a primary goal in the criminal justice system.

KEY TERMS

juvenile justice system, p. 4
***parens patriae,* p. 4**
jurisdiction, p. 4
delinquency, p. 5
status offense, p. 5
juvenile, p. 5
criminal justice system, p. 5
maximum age of juvenile court jurisdiction, p. 5
minimum age of juvenile court jurisdiction, p. 7
diversion, p. 11
intake, p. 11
victim restitution, p. 11
community service, p. 11
informal probation, p. 11
waiver to adult court, p. 11
adjudication, p. 11
probation, p. 12

REVIEW QUESTIONS

1. What is considered the founding concept of the juvenile justice system? Explain its origin and significance.
2. What two categories of acts are classified as delinquent in many states?
3. What is a juvenile?
4. What is the maximum age of juvenile court jurisdiction in most states?
5. What is the minimum age of juvenile court jurisdiction in most states?
6. Who usually refers juveniles to a juvenile court?
7. What terms are used exclusively in the juvenile justice system? Define each.
8. What are the three major steps in the juvenile justice process?
9. What major decision(s) is made at each step in the juvenile justice process?
10. Which types of cases are commonly dismissed at intake? Why?
11. List the similarities and differences between the juvenile and the criminal justice systems.

HANDS-ON ACTIVITIES

1. **Define Who Is a Juvenile** Go to the library and find out how your state defines a juvenile. This information is part of the juvenile laws for your state. You may also use the Internet. Document the section number of the law that defines a juvenile in your state.
   a. What are the minimum and maximum ages of juvenile court jurisdiction in your state?
   b. How does the law in your state compare with laws in other states?
   c. Using your knowledge of your community or recent news reports, do you think the age requirements in your state protect the community and juveniles adequately? Give examples and explain your position on the topic.
2. **Test Average Understanding of the System** Develop a quiz for your family and friends. On a sheet of paper, list the 13 juvenile justice terms discussed in this chapter on the right side of the paper. On the left side of the paper, put the corresponding criminal justice system terms in mixed-up order. Give the quiz to five people who are not in your class. Tabulate their results. What is the level of understanding of the people who took the quiz?

INTERNET ACTIVITIES

1. Go to **www.ojjdp.ojp.gov** Review the website and answer the following question: What role does the Office of Juvenile Justice and Delinquency Prevention play in the operation of the juvenile justice system?
2. Go to **www.courts.ca.gov/documents/BTB_23_1N_1.pdf** Review and write a three-page report of the document entitled "Reforming the Division of Juvenile Justice: Lessons Learned."

CRITICAL THINKING EXERCISES

1. **Define Juvenile Court Jurisdiction** You have recently been appointed by your state legislature to review the current juvenile law in your state. One of the responsibilities you have is to recommend a change to the minimum and maximum ages of juvenile court jurisdiction in your state. Currently the maximum age of juvenile court jurisdiction is 16. Therefore, a person who commits an offense at age 16 is a juvenile, whereas a 17-year-old is an adult. The minimum age of juvenile court jurisdiction is 12. Therefore, a person who commits an offense when 11 years old cannot be handled by the juvenile court system. You have studied the age minimums and maximums in all states and reviewed the statistics for juvenile adjudication.
   a. What would you recommend to the state legislature as the new minimum and maximum ages of juvenile court jurisdiction?
   b. What factors led you to raise or lower the current maximum age of juvenile court jurisdiction?
   c. What factors led you to raise or lower the current minimum age of juvenile court jurisdiction?

2. **Decide on Possible Adjudication** You are an intake officer with the local juvenile probation department. One evening the police bring to you a juvenile named Jeremy Williams who has been accused of assault. The assault arose out of a confrontation between Jeremy and his ex-girlfriend's current boyfriend. According to the police, the boyfriend confronted Jeremy at a local mall and started to threaten Jeremy if he did not stop harassing his ex-girlfriend. Jeremy shoved the boyfriend, who tripped and fell down a flight of stairs. The fall led to minor injuries to the boyfriend. Jeremy has never been taken into custody before and is a good student at school. He appears to be remorseful for his actions and is polite and courteous to you during the intake process. All indications are that Jeremy is a "good kid" but got caught up in a bad situation.
   a. What would you decide to do with the case? Would you dismiss the case, handle the matter informally, or refer the case for adjudication?
   b. What factors influenced your decision? State law allows you to place in detention any juvenile who has been arrested for assault. Would you place Jeremy in the detention center or release him to his parents?
   c. Why did you make the decision you did?

ANSWERS TO SELF-CHECKS

1.1 Self-Check

What assumptions led to the establishment of a separate system of justice for juvenile offenders?
The assumptions are that juveniles are less mature than adults, incapable of the same level of intent as adults, and more easily rehabilitated. This led to the basic theory that the juvenile justice system should be more rehabilitative than punitive, and this affects the ways in which juvenile offenders are managed at almost every step of the process.

1.2 Self-Check

1. What is a status offender?
A status offender is a juvenile who commits status offenses, a category of delinquent acts that are illegal only when committed by juveniles. Status offenders include truants, runaways, and underage smokers and drinkers.

2. What is the most common maximum age of juvenile court jurisdiction?
The most common maximum age is 17, although the range among the 50 states is from 16 to 18.

1.3 Self-Check

Why was a separate set of terms established for use in the juvenile justice system?
Because the original goal of the juvenile justice system was to rehabilitate, rather than punish, offenders, a separate set of terms was devised to further distance the two systems from one another. The purpose is to aid rehabilitation by not labeling the process in criminal terms. Therefore, in the juvenile justice system an offender is not a criminal, his or her adjudication is not a trial, and so on.

1.4 Self-Check

What is the most common disposition in juvenile court?
Probation, which allows the juvenile to remain in the community as long as he or she abides by the terms of probation. Probation requires that the juvenile avoid breaking the law; it can also require counseling programs (such as drug counseling), community service, or payment of victim restitution.

1.5 Self-Check

Do the similarities and differences between the juvenile justice system and criminal justice system apply to every jurisdiction?
Not necessarily. For example, some jurisdictions do not allow juveniles who are taken into custody to be photographed and fingerprinted; in the past, all jurisdictions followed this rule. This is one example of how gradually the line between adult and juvenile is appearing to blur.

ENDNOTES

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Andrew Fare/Alamy Stock Photo

History of the Juvenile Justice System

CHAPTER TWO

Chapter Outline

Chapter Objectives

After completing this chapter, you should be able to:

1. Describe how juvenile offenders were treated by the law throughout history.
2. Identify the early institutions of juvenile justice.
3. Explain the forces behind the creation of the juvenile justice system in the United States.
4. Outline the three major historical periods in juvenile justice.
5. Identify assumptions of the traditional model of juvenile justice.
6. Identify assumptions of the due process model of juvenile justice.
7. Identify assumptions of the punitive model of juvenile justice.
8. Describe how changing assumptions affect the juvenile justice system.

The Changing Shape of the Juvenile Justice System

The juvenile court system in the United States has been in existence since 1899. However, over the past century, the juvenile justice system has been marked by many shifts in thinking concerning how to treat juveniles. The juvenile justice system of today is remarkably different in scope, purpose, and operation than the early founders of the system ever envisioned. The reasons behind these shifts are often debated and have led some people in certain academic and legal circles to call for the abolition of the juvenile justice system.

Unlike the criminal justice system, a separate juvenile justice system is not constitutionally guaranteed. States are free to abolish their separate systems of juvenile justice at any time and simply put juveniles into regular criminal court. Nonetheless, it is unlikely that juvenile justice is going to be abolished any time soon.

The juvenile justice system is a network of interrelated social service and criminal justice agencies designed and operated for the treatment and care of children. Although a complex system, the juvenile justice system is much easier to change than the criminal justice system. Recently, many states have adopted a more accountable and punitive juvenile justice system.

Throughout this chapter, we discuss the various **assumptions** and views of theorists, legal scholars, politicians, and practitioners of juvenile justice in the United States. Assumptions are ideas and beliefs that are the foundation for theories, programs, and policies. Assumptions about the causes of juvenile delinquency, about how best to deal with delinquency, and about the operation of the juvenile justice system have been fundamental factors in shaping the system over the past 100 years. Changes in assumptions have dramatically altered how the juvenile justice system in the United States operates. Scholars may argue about the reasons behind these changes, but they are generally in agreement about the changes themselves and when they occurred.

2.1 SELF-CHECK

Do you understand what an assumption is and what role assumptions play in the development of juvenile justice?

Historical Treatment of Juveniles

Before the 20th century, juveniles were essentially **chattel,** or property, in the eyes of society and the courts around the world. Juveniles could be bought, sold, and treated like any other property, with the owner being the person in total control of the child. Many common social practices of the time treated children, by today's standards, dreadfully. Not given a separate status in the eyes of the criminal court, a juvenile was treated the same as an adult in the criminal justice system and subject to the same penalties, including death. Juveniles, once convicted of a crime, were sent to the same prisons as adults.

Even though juvenile offenders were subjected to the same punishments as adults, the criminal justice system tended to take a more paternalistic approach to handling these cases, and many times the punishments for juveniles were reduced or never imposed.[1] Children did not receive special protections in the criminal justice system, nor were they allocated special privileges in other segments of society. This view of children is still common in many societies around the world today. There are horror stories of children as young as 7 being put to death.

assumptions Ideas and beliefs that serve as the foundation for theories, programs, and policies. In juvenile justice, these assumptions consist of what people believe about the causes of juvenile delinquency, what we should do about juvenile delinquency, and how the juvenile justice system should function.

chattel The legal term for property. In the past, juveniles were viewed as property in the eyes of the law.

JUVENILE JUSTICE UNDER THE ENGLISH COMMON LAW

Under English common law, a juvenile accused of a crime was usually treated no differently than an adult offender. Juveniles could be given a variety of corporal punishments, banishment, and the death penalty for their offenses. In terms of criminal responsibility, any child over the age of 7 was accountable for any criminal acts that child committed. Age 7

was established in early Roman laws, adopted by the English common law, and eventually brought into the American system of justice.

A system of **orphanages, workhouses, training schools, and apprenticeships** developed in England in the 1600s to deal with unwanted, abandoned, and orphaned children. These institutions and their operation are perhaps best described in many of the writings of Charles Dickens, especially *Oliver Twist.* Children were brought into the adult world through **involuntary servitude** and apprenticeships. The focus of these systems was to train juveniles in trades so that they could contribute to society. Many of these practices were brought to the United States by the colonists and continued well into the 20th century.

The only similarity between the juvenile justice system of English common law and the one in operation today in the United States is that there were and still are a variety of public and private institutions, organizations, religious groups, and others who deal with wayward and delinquent children. Oftentimes, intractable, difficult children are dealt with through such organizations, and this practice continues today.

JUVENILE JUSTICE IN COLONIAL AMERICA

During the colonial era in the United States, children were viewed in much the same way as in England. Although explanations vary, many scholars believe that a parent's bond to a child was low due to high infant mortality rates. The family was the primary caregiver and the primary supervisor of children. In addition, parents were free to sell their children into slavery; they could care for and discipline their children as they saw fit. The move away from viewing children as chattel to viewing them as those in need of protection had its origins in Europe's Renaissance period (14th through 17th centuries) amidst a variety of educational and religious reforms. As a result, the criminal justice system and other social institutions began to view children as not being fully developed or capable of exercising free will. Thus, a variety of new social welfare programs were initiated to educate, reform, and instill morality in children and adolescents.

Prior to the development of a formalized juvenile justice system, an informal network of the youth's family, community members, and religious officials served as control mechanisms. Juvenile delinquency was viewed as a private matter, with the family being the ultimate arbiter and punisher in such cases. The church played a prominent role in such matters in colonial America. The punishments were meted out at the church, in schools, and in the home—and were often quite severe and embarrassing.

2.2 SELF-CHECK

1. How were children treated prior to the development of separate institutions for wayward juveniles?
2. What programs and facilities were initiated under English common law for juveniles?
3. What issues in the treatment of children were problematic during the Industrial Revolution?

CHILDREN DURING THE INDUSTRIAL REVOLUTION

Once the Industrial Revolution of the 18th and 19th centuries took hold, new issues in the treatment of children emerged. Despite the social reform programs started during the Renaissance period (such as social welfare and training schools), as more people moved into urban areas and as more industry was developed in these urban areas, wayward children were being trained to occupy a place in the industrial development. During this period of the Industrial Revolution, children worked long hours alongside adults in factories. However, many reform groups began to question how children were being treated in the new industrial society that was spreading across cities throughout the world. Early child labor laws and programs designed to alleviate the ills of urbanization were precursors to the current juvenile justice system. The puritanical ideal, which centered on the idea that the best way to cure juvenile delinquency was to remove the juvenile from the corrupting influence of the city and poverty, still pervades juvenile corrections in many forms today. The progressive idea that all children could be saved, combined with puritanical ideologies, led to innovative programs and facilities long before the creation of the juvenile court system in the United States.

orphanages, workhouses, training schools, and apprenticeships An informal system of public and private institutions that were designed to take in wayward children. Their goal was to take care of children whose parents were unable or unwilling to fulfill their responsibilities. These institutions attempted to raise children to become productive members of society.

involuntary servitude The practice of selling children into service to a business person or wealthy person. In exchange for the money, parents would essentially give up all rights to their children.

Urban poverty, misery, and crowding intensified during the Industrial Revolution. Children's rights and juvenile justice proponents advocated moving troubled youths to the countryside as a means of rehabilitation. *Do you think effecting a change in environment brings about rehabilitation? Why or why not?*
Lewis Wickes Hine (American photographer, 1874-1940)/National Archives and Records Division. NAIL Control Number: NWDNS-102-LH-488

Early American Juvenile Institutions

The concept of rehabilitation has its roots in 16th- and 17th-century Puritan America. The **Puritans** believed that through hard work and intense prayer a person became closer to God. These ideas were reflected in early American penal institutions as well as in the earliest juvenile institutions.

The first American penal institution to address juvenile issues specifically was the **Walnut Street Jail** in Philadelphia, Pennsylvania. The facility was the first real attempt to segregate and classify offenders based on such characteristics as age and gender.

During the early post-colonial period in the United States, several policy initiatives designed to deal with juveniles were enacted. Many of these initiatives changed child labor practices and the treatment of children in orphanages and workhouses.

One clear theme in most academic writings about the history of juvenile justice is that the Industrial Revolution led to many of the institutions that were developed in the United States. As the lower-class and immigrant population moved into the cities, the city itself was viewed as partially responsible for wayward children. As a result, many institutions were created for juveniles, typically far out in the country. The idea that country living and **traditional agrarian values** could cure juvenile delinquents is still today the tenet of numerous juvenile correctional ranches, camps, and outdoor programs. Anthony Platt argues that the reforms and corrective measures were simply a means to control the poor and retrain them to work in the industrial factories.[2] Indeed, as the Industrial Revolution wore on, more and more training and industrial schools for juveniles appeared.

Puritans A religious group in early America who believed that through hard work, religion, and education a person could get closer to God. These ideals served as the foundation of early institutions of juvenile justice in the United States.

Walnut Street Jail The first jail in the United States that separated inmates and sought to reform their behavior rather than just punishing them. Opened in 1790 in Philadelphia, Pennsylvania, it was also the first correctional facility to separate women and children from adult male inmates.

traditional agrarian values The ideas and beliefs shared by those who worked the land and espoused Puritan or Quaker values. The idea was that the city was a source of many juveniles' "evil ways," and the best way to change these youths was to remove them from the city and place them in remote rural locations.

HOUSES OF REFUGE

Initially, the reforms for juveniles began in the urban areas of New York City, Philadelphia, and Boston. In 1823, the Society for the Prevention of Pauperism focused on the plight of the

A variety of social institutions were created in England and in the United States to deal with wayward children prior to the inception of a juvenile justice system. *What type of institutions still exist today that are reminiscent of these early ones?* Library of Congress Prints and Photographs Division [LC-USZ62-116180]

horde of "dirty, foul-mouthed children who thronged the city streets and subsisted on picking pockets and other crimes." The Society advocated the construction of a new facility designed to deal with the different problems and issues facing children.[3]

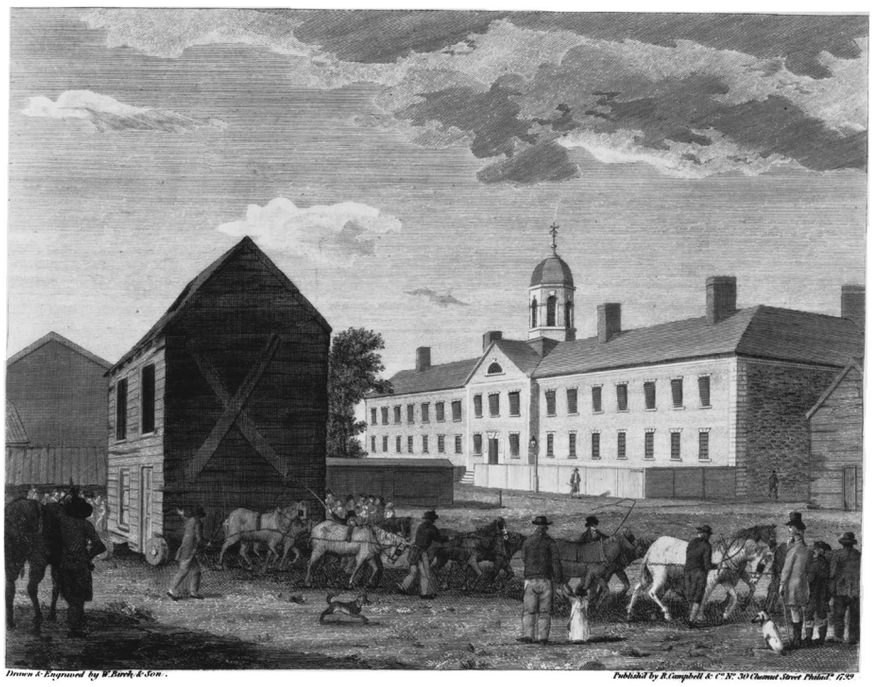
Houses of refuge were created in New York, Pennsylvania, and Massachusetts and were designed to take in all children who were neglected, abused, or delinquent. Founders believed in an ideal way of life and that juveniles could be saved through hard work and religion. These ideas were embraced in the houses of refuge where juveniles would be protected from weak and immoral parents, the crime of street life, and, most importantly, from their own wicked temptations. At the center of the teachings in these houses was the strong belief that humans are inherently evil and must be taught to be good. In these early institutions, the notion that the state was sometimes in a better position than the family to raise a child and had a duty to do so whenever it was in the best interest of the child began to take root. By the end of the 19th century, the belief that we could accurately diagnose the reasons for delinquency, combined with the notion that the state could and should intervene in the lives of children, resulted in the formation of the first juvenile court in the United States.

houses of refuge Early institutions specifically designed for juveniles in the United States. These facilities would take in and care for dependent, neglected, and delinquent children.

THE DEVELOPMENT OF *PARENS PATRIAE* AND REFORM SCHOOLS

The idea that the state could incarcerate juveniles on the basis of their status as delinquent, dependent, or neglected was fundamental to the houses of refuge. The concepts of *parens patriae* (see complete definition in Chapter 1) and ***in loco parentis*** served as the legal foundation for such interventions. The constitutionality of these concepts would be tested in Pennsylvania by a father whose daughter was committed to a house of refuge

in loco parentis The legal concept of allowing the state to "act in place of the parents." This gives the state the legal right to take away parental custody of children when it is in the best interests of the child.



GOAL, in Walnut Street PHILADELPHIA.

The first institution to separate juveniles from adults was the Walnut Street Jail in Philadelphia. *What are some of the reasons why it is important to separate juveniles from adults in the criminal justice system?*
Library of Congress Prints and Photographs Division Washington, D.C. 20540 USA [LOC - LC-USZC4-564]

2.3 SELF-CHECK

1. What religious group's values were used in the development of juvenile justice in the United States?
2. What are houses of refuge, and what role did they play in the early juvenile justice system?
3. What two legal concepts serve as the foundation for the juvenile justice system?

Ex Parte Crouse The first court case in the United States that declared the concept of *parens patriae* constitutional.

grassroots movement A movement that starts with the general public and not in the political arena.

child savers The group of progressive reformers who, in the late 1800s and early 1900s, were responsible for the creation of the juvenile justice system in the United States.

(see Focus on Policy). Following the legal acceptance of *parens patriae* in the ***Ex Parte Crouse*** case, a multitude of new facilities designed specifically for juveniles began to spring up around the nation. During the mid-1800s, reform schools were opened that purported to provide a more stable environment where wayward juveniles were educated through strict discipline and religious principles. The Lyman School for Boys was the first reform school in the United States and was opened in Westboro, Massachusetts, in 1847. A reform school for girls was soon to follow in Lancaster, Massachusetts, in 1855.[4] In addition, the concept of probation for criminal offenses began to take hold in Massachusetts during this time (a complete review of juvenile probation is included in Chapter 11). These early institutions and legal proceedings firmly established the foundation of a separate juvenile system in the United States. The reforms were very innovative and, as time passed and reform schools became more common, a **grassroots movement** would question their goals and operational practices and those of the houses of refuge.

Early Juvenile Justice in the United States

As a call for reform and the emerging juvenile justice system continued into the late 1800s and early 1900s, a progressive reform movement was taking hold that would be responsible for a variety of social programs and grassroots public policy initiatives. The members of this group primarily consisted of prominent women who became known as the **child savers.**

FOCUS ON POLICY

The Legitimization of *Parens Patriae* in *Ex Parte Crouse*

The first documented case where the concept of *parens patriae* was questioned in a legal setting in the United States occurred in the 1838 case of *Ex Parte Crouse.*

In this case, a father attempted to free his daughter from the Philadelphia house of refuge following her commitment there. A petition had been filed by Crouse's mother to have her committed because she was poor and lacked supervision. Her father challenged the commitment, arguing that her commitment without a trial was unconstitutional. The case was brought to the Pennsylvania Supreme Court and challenged the right of the state to take into custody children who had not committed a crime and also challenged the right of the state to commit a child without a trial by jury. The court ruled that the practice of *parens patriae* was constitutional and a legitimate state function. The court stated, "The right of parental control is a natural, but not an inalienable one." As such, the court found that when the natural parent was not prepared for the task of parenting or unworthy of it, *parens patriae* allowed for the state to take the place of the parents (*in loco parentis*).

In essence, the state was not punishing children, but saving them. In addition, the court gave legitimacy to the various houses of refuge that were springing up all over the United States. It stated, "the House of Refuge is not a prison, but a school, where reformation, not punishment, is the end." Finally, the court also legitimized the idea that children were not guaranteed the same rights as adults in the United States. In short, they could be deprived of constitutional guarantees given to adults in the course of the state's exercising its rights under *parens patriae.* This case preceded the formation of the first juvenile court in the United States by some 60 years.

The importance of the *Crouse* decision is that it is the first case which lays the legal foundation for what will eventually become the modern juvenile justice system. The Pennsylvania Supreme Court legitimized the ability of the state to take custody of a child, legitimized the purposes of the houses of refuge, and legitimized the idea that children were different from adults in the eyes of the law.

CRITICAL THINKING

What implications do you think *Ex Parte Crouse* has for parental and juveniles' rights in court and status in society?

Activists such as Jane Addams and Julia Lathrop of the Settlement House Movement and the National Congress of Mothers lobbied and were successful in convincing key politicians of the utility of a separate system of juvenile justice. In addition to criminal justice reform, the targets for their reforms included child labor practices, child abuse, runaways, homeless children, and newly immigrated children. Scholars have argued about the reasons behind the creation of the juvenile justice system in the United States. Some believe that the system was formed out of a feeling of benevolence, as espoused by Progressive-Era "child savers,"[5] while others claim that it was simply a mechanism designed to control the nefarious effects of the Industrial Revolution such as poverty, urban decay, and crime.[6] Some conclude that the children were never "saved" and that the juvenile justice movement was a coercive and conservative influence backed by big business in order to control and train the poor to be workers in a newly industrialized society.[7]

Frederick L. Faust and Paul J. Brantingham concluded that three factors led to the development of a religious and humanistic view of delinquency. The first factor was urban decay. The second factor was the harsh treatment of juveniles by the criminal justice system. The third factor was the promotion of causes of delinquency beyond the control of juveniles that could be remedied through rehabilitation.[8] This view, traditional American values of wholesome care, and the legal doctrine of *parens patriae* merged to undergird the formation of a socialized juvenile court. The influences of the Industrial Revolution, an end to post–Civil War Reconstruction, and Victorian thinking about poverty and crime

The child savers were a group of progressive activists, mostly women, who were responsible for the creation of a separate system of juvenile justice. Shown above are Jane Addams (middle) and Julia Lathrop (left). *Why do you think women were so active in this area?* Library of Congress Prints & Photographs Division [LC-USZ62-50050]

The first formal juvenile court was opened in Cook County, Illinois, in 1899. The opening of the court marked the creation of a separate system of justice for juveniles in the United States. *Do you think we need a separate court for juveniles accused of delinquency? Why or why not?*
The Reading Room/Alamy Stock Photo

combined to form the early juvenile justice system in America. All of these factors contributed to the emergence of the juvenile justice system as a separate system of justice, which is, in essence, an ongoing experiment.

JUVENILE JUSTICE DURING THE VICTORIAN ERA

The most cited assumptions of the proponents of the early juvenile justice system centered on the need to provide juvenile offenders with more individual attention than the criminal justice system of the time could provide. The early juvenile justice system was founded on the belief that the state could and should act *in loco parentis* under the doctrine of *parens patriae*. Instead of an adversarial contest whose fundamental purpose was to determine facts, assess blame, and punish the guilty, the juvenile justice system of the late 19th century was to be more of an *inquisitorial system* whose purpose was to determine cause, diagnose illness, and prescribe treatment. The emerging juvenile justice system reflected the belief of Victorian Era (late 1800s and early 1900s) that science had progressed to such a degree that it was possible to diagnose juveniles accurately and effectively to treat and cure them.

Juvenile delinquency was one of many ills the progressive movement sought to eradicate. The early juvenile system was thus viewed as progressive, state of the art, and the morally right thing to do. The system was not intervening in the lives of juveniles for society's good, but for the juvenile's good. Not only was the system thought to be a cure for the ills that plagued the urban centers of America, it was thought to be righteous and indeed took on a church-like quality.

Some, however, question the motives of *parens patriae* and conclude that the state was not a benevolent parent; it simply enforced a moralistic code through warehousing, punishing, and proselytizing. Platt notes that the crimes designated specifically for the new juvenile court (begging, sexual crimes, frequenting

2.4 SELF-CHECK

1. Who were the child savers, and what role did they play in the development of the juvenile justice system?
2. What are the differing opinions given as to why the juvenile justice system was created in the United States?

FOCUS ON POLICY

The Illinois Juvenile Court Act of 1899

The first official separate juvenile court was established in Cook County, Illinois, in 1899. The Illinois Juvenile Court Act of 1899 specifically outlined the types of cases the court had jurisdiction over and separated the juvenile justice system from the adult criminal justice system. Following passage of this act, similar legislation was enacted in states across the nation so that by the mid-1920s, juvenile courts were operational in almost every state. Specifically, the act established:

- The age at which a juvenile becomes an adult (16 in this act; varying ages were adopted in other states, and age limits changed over time in several states as well).
- The definitions of dependent, neglected, and delinquent children, which broadened the jurisdiction of the court in juvenile matters.
- The establishment of a separate courtroom, different procedures, and a separate record for juvenile cases involving dependent, neglected, or delinquent children.
- The specification of placement for juveniles determined to be dependent, neglected, or delinquent.
- The right of the court to continue to supervise children who have been adjudicated delinquent even after placement.
- The recognition that the juvenile court is not a criminal court, but a civil court, emphasizing the rehabilitation and treatment of children. This led to different roles on the part of court participants, including judges, attorneys, and probation workers.
- The development of probation programs and authorization of probation officers to assist the court in juvenile cases.
- The statutory concept of *parens patriae* by describing the ability of the court to place juveniles outside the home and determine what is best for the child.

Overall, the Illinois Juvenile Court Act of 1899 gave legislative authorization to the principles of juvenile justice that were already established in the United States. It also created a separate court to hear and handle matters involving juveniles. The dual role of adjudicating juvenile offenses and dealing with juveniles who needed protection was given to the court through this act. The passage of this act is regarded as the official beginning of juvenile justice in the United States.

CRITICAL THINKING

Do you think there could be problems associated with having a separate court system for juveniles? Explain why or why not.

vice establishments, loitering, staying out all night) were all crimes associated with the urban poor.[9] He argues that the bias established against the poor remained in the juvenile justice system: Poor children were sent to reformatories, while the middle- and upper-class children were sent home. Regardless of the specific reasons for its creation, the juvenile justice system became part of the U.S. legal system with the passage of the Illinois Juvenile Court Act of 1899.

Myth	Fact
Juveniles have always had the same rights in delinquency proceedings as adults have had in criminal proceedings.	Several U.S. Supreme Court decisions in the 1960s and 1970s granted juveniles fundamental due process rights. Prior to these decisions, juveniles could be incarcerated for long periods of time without basic rights, such as the right to an attorney, notice of the charges, and full and fair hearing. Today still, juveniles are not granted the right to a jury trial in many delinquency proceedings.

The Traditional Model of Juvenile Justice (1900s–1960s)

The notion of juvenile justice was beginning to take hold in several states in the later part of the 19th century. Children were tried separately in Suffolk County, Massachusetts, in 1870, and the practice was adopted statewide in 1872. New York developed a similar statute in 1892, followed by Indiana and Rhode Island. In 1893, Pennsylvania enacted legislation that prohibited children under age 16 from being incarcerated with adults.[10] The law also required that juveniles be tried separately from adults and that separate records be kept.

These practices were consolidated and solidified by the **Illinois Juvenile Court Act of 1899** (see Focus on Policy). This act was the first legislation in the United States to specifically provide for a separate system of juvenile justice and to delineate many of the assumptions and practices of the new system, which we refer to as the traditional model of juvenile justice.

Illinois Juvenile Court Act of 1899 The law that established the first separate juvenile court in the United States.

The role of the juvenile court was fundamentally different from criminal courts in the United States. Further, juvenile court officials were given wide discretion in order to be able to treat juveniles who came under their jurisdiction.[11]

Many writings reflect the belief that everyone in the United States supported the progressives' drive for the creation of the juvenile court. In reality, the entire concept of the juvenile justice system has always had its detractors. Simply because most states had passed juvenile court statutes by the mid-1920s doesn't mean that there were separate systems of juvenile justice in operation. In fact, several research studies about the juvenile justice system prior to the due process revolution of the 1960s argued that the system was far from its paternalistic and benevolent ideal.[12]

An examination of the early juvenile justice system revealed that, for the most part, there was a wide gap between what was intended by progressive reformers and the actual system operation.[13] Indeed, some legal scholars began to argue that the juvenile court was nothing more than a junior criminal court where juveniles were denied basic due process rights.[14] These arguments, combined with several high-profile cases, led the higher courts to examine the operation and administration of the juvenile justice system more closely. Prior to the U.S. Supreme Court's addressing the problems of juvenile justice in the 1960s, some states were already in the process of changing their laws to include some basic due process rights in juvenile court.[15] The issues and problems within the juvenile justice system were already on the social and political agendas long before the U.S. Supreme Court made its famous rulings in the 1960s.

Anthony Platt summarizes his alternative view of the juvenile court movement and the child savers into three themes:

- **Increased Imprisonment Necessary:** First, he argues, delinquents were seen as "needing firm control and restraint" if they were to be rehabilitated. Thus, the child savers were not benevolent and were in fact recommending increased imprisonment as a means of removing children from corrupting influences.
- **Lower-Class Children Targeted:** Platt notes that the determining factors considered in deciding whether to remove a child from their home were fraught with middle-class or upper-class bias and were exclusively used to evaluate the competency of the lower-class home. "The child savers set such high standards of family propriety that almost any parent could be accused of not fulfilling his or her 'proper function.'"
- **Due Process Ignored:** Finally, he argues that the child savers blurred the distinction between dependent and delinquent children. As such, due process was lost for criminal children, and all children were now viewed as dependent. Anyone who disputed the intentions of the juvenile court or argued that due process must remain a part of the process was labeled uninformed and impeding the worthy goals of the juvenile system.[16]

Eventually, however, the criticisms of the juvenile court began to outnumber the accolades, and the juvenile justice system would be a substantial target of the due process movement during the turbulent decade of the 1960s.

2.5 SELF-CHECK

1. What was the Illinois Juvenile Court Act of 1899? Why is this act so important?
2. What is Platt's alternative view of the juvenile court and the child savers?

The Due Process Model of Juvenile Justice (1960s–1980s)

From its inception, the early juvenile court was subject to criticism that largely centered on the practicality, constitutionality, and lack of punishment in the juvenile court. For decades, the juvenile justice system experienced criticism from the general public, scholars, and the judicial system. This culminated in several U.S. Supreme Court decisions that fundamentally altered the functioning of the system (all of the important U.S. Supreme Court cases on juvenile justice during this period are discussed fully in Chapter 8). These criticisms stemmed from the inability of the juvenile justice system to fulfill its intended mission of rehabilitating juveniles.

The Supreme Court headed by Chief Justice Earl Warren was responsible for a variety of changes to the criminal and juvenile justice systems in the United States during the 1960s. *Do you think juveniles accused of delinquency deserve all of the rights expressed in the Constitution as adults facing criminal charges? Which rights would you exclude and why?* Jill Braaten/McGraw Hill

CAREERS IN JUVENILE JUSTICE

Juvenile Defense Attorney

Prior to the due process revolution of the 1960s, defense attorneys were not a regular part of the juvenile justice process. Once fundamental due process became part of the juvenile justice system, the role of defense attorneys in juvenile court became much more prominent. Indeed, juvenile justice is a specialty in many states and is recognized by the American Bar Association.

The primary job of the juvenile defense attorney is to serve as the legal advocate for a juvenile accused of a delinquent act. Similar to a lawyer in an adult criminal proceeding, the juvenile defense lawyer prepares the case for the juvenile and represents them at all critical stages of the proceedings. This can include detention hearings, adjudication hearings, disposition hearings, and plea negotiations. In addition to knowing all of the rules regarding criminal court procedure, the juvenile defense lawyer has to know juvenile justice procedure in their state. Juvenile law varies from state to state, and some states require certification in juvenile and family law before an attorney can represent a juvenile. Many states and counties operate separate public defender offices for juveniles, and others have juvenile designees within a central public defender's office.

Juvenile defense attorneys have an integral role in the process beyond legal representation. Juvenile court proceedings are much less formal than adult proceedings, and the actors in the court (judge, prosecutor, probation officer, and defense attorney) frequently work together as a team to determine what is best for the juvenile. This is what separates adult justice from juvenile justice in the courtroom. As part of this role, defense attorneys help to ensure that a juvenile is complying with orders from the court and following some type of treatment plan. They serve as the advocate for the juvenile throughout the court process and while under sanction as well.

To become a juvenile defense attorney, you must have a law degree and pass the bar exam within your state. Many jurisdictions require additional training in juvenile law prior to being able to represent juveniles in juvenile court.

Critical Thinking

Go to **njdc.info** and find links on the National Juvenile Defender Center site. Read about juvenile defense attorneys' tasks and responsibilities, and use this information to write a short report listing the main qualifications for the job.

There were many abuses of discretion, which led the U.S. Supreme Court to eventually conclude that juveniles received the "worst of both worlds." In other words, the child received neither fair treatment in the courts nor rehabilitation in the juvenile correctional system.

People began to realize that the conflicting goals of juvenile justice (best interest of the child versus the best interests of society) made the process indistinguishable from a criminal trial, in that the end result was punishment, deterrence, and incapacitation. The due process changes in juvenile justice in the 1960s–1980s moved away from the idea that a child was property—neither the parents' property nor the state's property. Now a child was recognized as a person with associated rights and protections other than just the right to be saved. This shift also resulted in a reduction in individualized justice.

2.6 SELF-CHECK

What changes to the juvenile justice system happened during the due process era?

Criticisms of the juvenile justice system and the due process revolution resulted in reforms in both substantive and procedural justice. Procedurally, a juvenile court now had to provide due process. Although the U.S. Supreme Court stopped short of abolishing the separate system of juvenile justice, its nature was nonetheless altered. Substantively, a juvenile court would now handle only more serious crimes, as status offenses were slowly deinstitutionalized.[17] Most of the original assumptions of juvenile justice survived the due process revolution. Only two were markedly changed:

1. The juvenile justice system did not need the broad discretion originally envisioned by the founders.
2. Due process was important and helped treatment.

The changes in the assumptions resulted from recognized abuses within the system itself and not an abandonment of the original goals of juvenile justice. In subsequent years, criticism would take a different form, specifically that juvenile offenders were slipping through the cracks and that they were not as innocent as the system was treating them.

The Punitive Model of Juvenile Justice (1980s–Present)

The most salient criticism of the juvenile justice system that led to the punitive model of juvenile justice was that the system was ineffective in dealing with the issues of violent crime and repeat offenders.[18] Although various studies indicate that the number of juveniles who commit violent offenses and/or who recidivate is small, these offenders are of great concern to the public, media, and politicians.

The inability of juvenile justice system personnel to deal with these offenders resulted in a wave of "get tough" legislation that began in the 1970s and continues today. Previous minor tinkering with juvenile justice policy gave way in several states to broad, comprehensive rewriting of juvenile and family codes. These new codes are rooted in assumptions that are markedly different from those of the founders of the juvenile justice system. The agenda of deinstitutionalization, diversion, and reform has been openly questioned and criticized.[19] According to one writer, "What was once a small system seeking to ameliorate the social condition of the neglected, abused, and delinquent youths has become an institution that often vacillates from one extreme to another."[20] By the late 1970s, lawmakers began responding to calls for stricter legislation, and many state politicians began to de-emphasize rehabilitation in favor of punishment, justice, accountability, and public protection.[21]

determinate sentence A sentence that has a fixed number of years to serve that is associated with more punitive goals than rehabilitative ones. The indeterminate sentence is a hallmark of the juvenile justice system. The idea was that in order to rehabilitate juveniles, you could not specify the amount of time it would take to cure them.

Under the punitive model of juvenile justice, the function of the system has shifted to assessing the level of harm to society from the actions of a juvenile and imposing the appropriate level of punishment to deterring the juvenile from future delinquency. This change in the system's function is particularly evident in the expansion of the **determinate sentence** law in Texas following enactment of House Bill 327 in 1996. This law is now applicable to

FOCUS ON PRACTICE

More than 1,000 Suspected Child Sex Predators Arrested During Operation Broken Heart

In June 2017, Internet Crimes Against Children (ICAC) Task Forces arrested 1,012 suspected child predators from more than 40 states during a two-month nationwide operation following the investigation of more than 69,000 cases.

The arrests marked the end of Operation Broken Heart, a coordinated investigative operation to intensify efforts to identify and arrest suspected child sexual predators during April and May 2017. The 61 ICAC Task Forces, funded through the Office of Juvenile Justice and Delinquency Prevention (OJJDP) grants, comprise more than 4,500 federal, state and local, and tribal law enforcement agencies that participated in the operation.

"As technology and social media evolve, predators are quick to figure out how they can use these new tools to reach—and exploit—our children," said OJJDP Acting Administrator Eileen M. Garry. "Our greatest strength on this ever-changing battlefield is the partnerships we have with federal, state, and local agencies. Our combined efforts across jurisdictional, state, and even national boundaries make both the Internet Crimes Against Children Task Force program and Operation Broken Heart effective."

The operation targeted suspects who (1) possess, manufacture, and distribute child pornography; (2) engage in online enticement of children for sexual purposes; (3) engage in the commercial sexual exploitation or prostitution of children; and (4) engage in child sex tourism—traveling abroad for the purpose of sexually abusing children in other countries.

In 1998, OJJDP launched the ICAC Task Force Program to help federal, state and local law enforcement agencies enhance their investigative responses to offenders who use the Internet, online communication systems, or computer technology to exploit children. To date, ICAC Task Forces have reviewed 705,963 complaints of child exploitation, which resulted in the arrest of 75,688 individuals. In addition, since the ICAC program's inception, 585,604 law enforcement officers, prosecutors, and other professionals have been trained on techniques to investigate and prosecute ICAC-related cases.

Source: https://www.ojp.gov/newsroom/pressreleases/2017/ojp-news-06262017.pdf

23 offenses, up from the original 6 offenses, for which a juvenile may receive up to a 40-year sentence, depending on the offense committed. Juveniles can receive these sentences in juvenile court from a juvenile court judge. A juvenile offender serves their sentence at a Texas Juvenile Justice Department facility until age 17, at which point a review hearing is held. A juvenile court judge can send the youth back to the juvenile facility until age 19 or to the prison system to serve the rest of the sentence. As a result, the number of waivers to adult court in Texas has declined. As evidenced in Texas, the goal of the juvenile justice system has shifted from providing protection and treatment for the juvenile offenders to meting out a punishment that fits the crime.

The current trend to increase the punitive nature of the juvenile justice system reflects certain societal factors. Four important forces that helped to bring about this model can be identified. There are several that deserve mention, so this list is by no means complete.

1. **Perception of Increased Violent Juvenile Crime:** Whether there has actually been a substantial increase in juvenile violent crime is not as important as the *belief* that such increases have occurred. Perception, paranoia, and politicking often drive policymaking, not empirical facts.
2. **Focus on Serious Habitual Juvenile Offenders:** The recognition of and research on serious habitual juvenile offenders resulted in calls for changes in several traditional precepts of the juvenile system, most notably information sharing, record keeping, and increased incarcerative ability.
3. **Juvenile Drug Use and Gang Membership:** Increasing rates of drug use and gang membership among juveniles created a crisis situation in many jurisdictions. Criminal justice systems across the country developed a siege mentality concerning gangs and drugs. An increase in female involvement in delinquency and gangs was coupled with a general perception that juveniles had become the most dangerous and least trusted segment of the population.
4. **Increased Due Process:** Perhaps the most prominent force for change was the due process revolution of the 1960s. In society, rights come with responsibilities, and the more the